

ASSEMBLY BILL

No. 2120

Introduced by Assembly Member Ridley-Thomas

February 20, 2014

An act to amend Section 515.8 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 2120, as introduced, Ridley-Thomas. Compensation: child care instructor.

Existing law provides that 8 hours of labor constitutes a day's work. Under existing law, any work in excess of 8 hours in one workday and any work in excess of 40 hours in any one workweek and the first 8 hours worked on the 7th day of work in any one workweek is required to be compensated at the rate of no less than 1½ times the regular rate of pay for an employee.

Existing law authorizes the Industrial Welfare Commission to establish exemptions from the requirement that an overtime rate of compensation be paid for executive, administrative, and professional employees primarily, as defined, engaged in exempt duties and if certain conditions are met.

Existing law provides that the overtime compensation requirements described above do not apply to an individual employed as a teacher, as defined, at a private elementary or secondary school but do apply to a tutor, teaching assistant, instructional aide, student teacher, day care provider, vocational instructor, or other similar employee.

This bill would instead provide that the overtime compensation requirements do not apply to a tutor, teaching assistant, instructional

aide, student teacher, day care provider, vocational instructor, or other similar employee at a private elementary or secondary school.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 515.8 of the Labor Code is amended to
2 read:

3 515.8. (a) Section 510 does not apply to an individual
4 employed as a teacher at a private elementary or secondary
5 academic institution in which pupils are enrolled in kindergarten
6 or any of grades 1 to 12, inclusive.

7 (b) For purposes of this section, “employed as a teacher” means
8 that the employee meets all of the following requirements:

9 (1) The employee is primarily engaged in the duty of imparting
10 knowledge to pupils by teaching, instructing, or lecturing.

11 (2) The employee customarily and regularly exercises discretion
12 and independent judgment in performing the duties of a teacher.

13 (3) The employee earns a monthly salary equivalent to no less
14 than two times the state minimum wage for full-time employment.

15 (4) The employee has attained at least one of the following
16 levels of professional advancement:

17 (A) A baccalaureate or higher degree from an accredited
18 institution of higher education.

19 (B) Current compliance with the requirements established by
20 the California Commission on Teacher Credentialing, or the
21 equivalent certification authority in another state, for obtaining a
22 preliminary or alternative teaching credential.

23 (c) ~~This section does not~~ *Section 510 does not apply to any a*
24 *tutor, teaching assistant, instructional aide, student teacher, day*
25 *care provider, vocational instructor, or other similar employee at*
26 *a private elementary or secondary academic institution in which*
27 *pupils are enrolled in kindergarten or any of grades 1 to 12,*
28 *inclusive.*

29 (d) The exemption established in ~~subdivision (a)~~ *subdivisions*
30 *(a) and (c)* is in addition to, and does not limit or supersede, any
31 exemption from overtime established by a Wage Order of the
32 Industrial Welfare Commission for persons employed in a
33 professional capacity, and does not affect any exemption from

1 overtime established by that commission pursuant to subdivision
2 (a) of Section 515 for persons employed in an executive or
3 administrative capacity.

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